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Section 4(1) of the Local Authorities Loans Act, 1924 empowers Government to make rules consistent with the Act as to matters specified in clauses (i) to (xv) the last of which relates to the utilization of unexpended balances of loans either in the reduction in any way of the debt of the local authority or in carrying out any works which the authority is legally authorised to carry out and the sanction necessary to such utilisation. The Bombay Local Authorities Loans Rules 1923 being made in exercise of power vesting in Government under section 4(1) of the Local Authorities Loans Act are statutor and no infringement there of would be permissible. Rule 14 of the these Rules provides:

"If on the completion of the work or the closing of the account of the transaction for which a local authority has borrowed money, the Provincial Government is satisfied that the whole of the money has not been spent on the purpose for which it was borrowed it shall proceed as follows:-

(a) .....

(b) In the case of a non-Government loan ------

The Provincial Government may direct that the unexpended balance shall be utilised in the reduction in any way of the debt of the local authority or in carrying oyt any works which the local authority is legally authorised to carry out."

The main drainage work for which the loan was raised by the Amalner Municipality has apperently not been complet Nor does it appear that the account of the transaction has beenclosed. If. so, neither of he conditions orodedent to the utilization of the unexpended balance as provided in rule 14(b) being satisfied, it would not be competent for Government to permit the use of the unexpended balance of Rs.28000 for the T.P.Surface Drains Works Scheme as requested by the Amlner Municipality. The view taken by the Deputy Secretary P.D. is correct.

U.R. to G.O. No. 4288, dt. the 8th June 1945 — P.N.M. 5/6/45.

The Nadiad Municipality has in contemplation an extensive scheme for the improvement of the water supply of the town. The scheme is estimated to cost about Rs.15½ lakhs. The Municipality has already incurred an expenditure of Rs.25,000/- towards the cost of the preliminary survey and preparation of plans and estimates of the scheme. It is anticipated that it will have to incur afurther cost of Rs. 25,000/- for submitting the scheme for scrutiny to the Consulting Public Health Engineer. The whole project is apparently beyond the financial capacity of the Municipality, but it proposes in the first instance to raise a loan of Rs.50,000/- in the open market to meet the cost of the preliminary survey and preparation of plans and estimates. The question referred to the R.L.A. for consideration is whether it is competent for the Municipality to apply to theProvincial Government for sanction to raise a loan of Rs.50,000/- for the purpose stated under the provisions of section 3(1) of the Local Authorities Loans Act, 1914.

Section 3(1) of the said Act provides, inter alia, that a local authority may subject to the prescribed conditions borrow on the security of ~~this~~ funds for the purpose of carrying out any works which it is legally authorised to carry out. "Work" as defined in section 2 includes a survey. The term "survey" has not been defined in the Act. Webster's New International Dictionary defines it as follows:-

"To inspect; to examine; to examine with reference to condition situation and value; to examine and ascertain the state of; todetermine and delineate the form extent position of, as a tract of land, by taking linear and angular measurements, and by applying the principles of geometry and trigonometry and of surveying an examination of all the part and particulars of a thing to ascertain its condition quantity or quality, the operation of finding and delineating the contour, dimensions, position etc. of any part of the earth's surface; a measured plan and description of any portion of country; the examination of the contour of the surface; and accurate delineation of the whole on paper."

3. Giving the term"survey" a wide and liberal interpretation it would, it appears, include the preparation of plans and estimates of a particular scheme under examination.

For most plans and estimates do involve a preliminary survey. viewed from that aspect the preparation of plans and estimates would, it seems come within the meaning of "work" for which a loan can be raised under section 3(1) of the Local Authorities Loans Act; but the point is not quite free from doubt. In the present case, some expenditure has already been incurred on the actual inspection and survey of the site of the proposed scheme. Whether the Municipality should be allowed to raise the loan is a question which the administrative Department will have to decide on the merits of the case. The proposed water works, for reasons unforeseen at present, may never be built or a new site may ultimately be chosen for which new plans and estimates would be necessary, or the matter may be delayed so long that the estimates may become out of date and new ones are required. In such a case Government would be subscribing to a loan for something of doubtful value to the community. It is also questionable whether the Municipality was justified in incurring expenditure on the preliminary work of the scheme in contravention of instruction (3) contained in G.R. F.D.No.1393 dated 11th July 1938.

Sd/PNM.
3/7/45.

Remembrancer of Legal Affairs.

U.R. to G.D.No.4932 dated the 4th July 1945.

VGP. 9-7-56.

The question for the consideration of the R.L.A. is whether an advance of the Local Fund Cess would be admissible under the proviso (c) to section 7 of the Local Authorities Loans Act,1914, for the cess which would be collected during the current year.

2. Proviso (v) to section 7 of the Local Authorities Loans Act, 1914, permits a district local board to receive an advance from the Government of Bombay equivalent to the amount of the cess levied under sub-section (1) of section 93 of the Bombay Local Boards Act, 1923, which has not been collected or the collection of which has been suspended under sub-section (2) of the said section 93. Section 96 of the latter Act provides that the cess described in section 93 shall be levied so far as may be in the same manner and under the same provisions of law as land revenue Section 139 of the Bombay Land Revenue Code, 1879 lays down that the land revenue shall be leviable on or at any time after the first day of the revenue year for which it is due but except when precautionary measures are deemed necessary under the provisions of section 140 and 144 payment will be required only on the dates to be fixed under the provisions contained in the Act. "Revenue year" means the period from 1st of the calender year until and inclusive of the thirty first July and exclusive of the thirty first July in the next calendar year (see section 3(22) of the Act). Reading the provisions together it appears that the local fund cess for the current year became ~~that the local fund cess for~~ liviable on 1st August 1945, although it would become payable on the dates fixed under rule 116 of the Land Revenue Rules. Consequently there appears no legal objection to Government making anadvance of the Local Fund Cess under the provisio (c) to section 7 of the Local Authorities Loans Act, 1914, for the cess which would be collected during the current year.

Sd. 6/12

Remembrancer of Legal Affairs.

U.R. to G.D. No.9133. dated 6th December 1945.